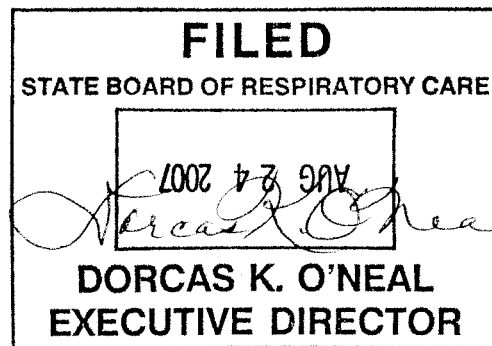


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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF RESPIRATORY CARE

IN THE MATTER OF THE :
REINSTATEMENT OF THE LICENSE OF :
:
Robert H. Szymanski :
License No. ZA 02908 :
:
TO PRACTICE RESPIRATORY CARE :
IN THE STATE OF NEW JERSEY :

Administrative Action

CONSENT ORDER
CONDITIONALLY GRANTING
LICENSURE

This matter was opened to the New Jersey State Board of Respiratory Care (hereinafter "the Board") upon the submission of a reinstatement application by Robert H. Szymanski (hereinafter "Respondent") who allowed his license to expire in March 31, 2000. As part of the reinstatement process respondent was required to undergo a criminal history background check which revealed that he had been arrested on August 19, 1970 for charges that were subsequently dismissed. He was also the subject of a conviction in October 14, 1994 for distribution of controlled dangerous substances and possession of Heroin. Additionally, he was arrested in October 10, 1998 for a violation of the Controlled Dangerous Substance/Drug and Cosmetic Act.

On or about April 16, 1994, respondent falsified his New Jersey application for a temporary license as a respiratory care therapist in that he answered "no" to the question:

Have you ever been summoned, arrested, taken into custody, indicted, convicted or tried for or charged with or pleaded guilty to, the violation of any law or ordinance or the commission of any felony or misdemeanor (excluding traffic violations) in this or any other State or in a foreign country?

Although respondent had not been convicted at the time that he submitted his application he was aware that he had been arrested in two instances by that time. In response to the question contained in his reinstatement application dated February 27, 2007, respondent answered "yes" to the question, "Have you been arrested, charged, or convicted of any crime or offense that you have not already reported to your board/committee?" Respondent added a notation which read: "DUI 1999 driver's license restored." Thus, respondent failed to reveal the 1970 arrest, 1994 conviction and 1998 arrest on a second application.

On July 10, 2007, respondent appeared without counsel, and agreed to proceed with the investigative inquiry before the Board to explain the reasons that he failed to disclose on the initial application the nature of his criminal conduct. He admitted that he had abused alcohol. However, respondent asserted that he voluntarily enrolled in treatment for rehabilitation to overcome his impairment and that he has been sober for approximately four years. Documentation of his participation was not provided at the time of the inquiry.

Having reviewed the entire record, including the testimony of the respondent at the investigative inquiry, it appears to the Board that:

These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(a) in that respondent failed to disclose the arrest on his initial temporary license application and failed to reveal either of his arrests or his conviction on the 2007 application. A violation of N.J.S.A. 45:1-

21(f) also exists in that he was the subject of a criminal conviction that related adversely to the practice of respiratory care.

The parties being desirous of resolving this matter, and the Board finding that the within Consent Order is adequately protective of the public interest;

IT IS ON THIS DAY OF 2007,

HEREBY ORDERED AND AGREED THAT:

1. Respondent shall refrain from using any and all controlled substances or potentially addictive substances except as duly prescribed by a treating health care practitioner.
2. Respondent shall undergo random directly witnessed urine monitoring testing for alcohol and controlled substances, with a program pre-approved by the Board, a minimum of twice during a one month period beginning within fifteen (15) days from the filing date of this Order.
3. Respondent shall be responsible to ensure that the pre-approved Board urine screening agency that he utilizes as a result of this Consent Order shall supply copies of all urine monitoring test reports within 10 days of their receipt by the agency.
4. Respondent expressly waives any claim to privilege or confidentiality that he may have concerning reports and disclosures to the Board, and use by the Board of that information in license proceedings regarding him, including reports and disclosures by the urine monitoring program.
5. Respondent shall provide the Board with written documentation demonstrating his attendance at and participation in an Alcoholics Anonymous Program or other rehabilitative or treatment programs.
6. Following Board review and satisfaction with the information provided by respondent

pursuant to paragraph 5 and review of all documents all of which are negative for alcohol and controlled substances, respondent will then be eligible for reinstatement on condition that he successfully pass the re-credentialing examination offered by the National Board for Respiratory Care ("NBRC") as required under N.J.S.A. 45:1-7.1 as the lapse of his license has exceeded five (5) years.

NEW JERSEY STATE BOARD OF RESPIRATORY CARE

By: _____

Kenneth Capek
Board President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

Robert H. Szymanski